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# **Civil Justice Committee**

**March 8, 2006  
10:00 AM – 12:00 PM  
24 House Office Building**

# **Committee Action**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

### Civil Justice Committee

**Start Date and Time:** Wednesday, March 08, 2006 10:00 am

**End Date and Time:** Wednesday, March 08, 2006 12:00 pm

**Location:** 24 HOB

**Duration:** 2.00 hrs

#### Consideration of the following bill(s):

HB 803 Child Support Guidelines by Rice  
HB 839 Homeowners' Associations by Kottkamp  
HB 841 Supersedeas Bond by Attkisson  
HB 1089 Construction Contracting by Galvano

#### Consideration of the following proposed committee bill(s):

PCB CJ 06-04 -- Electronic Recording

NOTICE FINALIZED on 03/06/2006 15:59 by Hay.Tracey

# COMMITTEE MEETING REPORT

## Civil Justice Committee

3/8/2006 10:00:00AM

**Location:** 24 HOB

**Attendance:**

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Mark Mahon (Chair)	X		
Dean Cannon	X		
Marti Coley	X		
Carl Domino	X		
Arthenia Joyner	X		
Irving Slosberg	X		
John Stargel	X		
<b>Totals:</b>	<b>7</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Wednesday, March 08, 2006 12:43:24PM

## COMMITTEE MEETING REPORT

### Civil Justice Committee

3/8/2006 10:00:00AM

**Location:** 24 HOB

#### **Summary:**

#### **Civil Justice Committee**

*Wednesday March 08, 2006 10:00 am*

HB 803	Favorable With Committee Substitute	Yeas: 6	Nays: 0
HB 839	Favorable With Committee Substitute	Yeas: 5	Nays: 0
HB 841	Favorable With Committee Substitute	Yeas: 3	Nays: 2
HB 1089	Favorable	Yeas: 4	Nays: 0
PCB CJ 06-04	Favorable With Amendments	Yeas: 6	Nays: 0

Committee meeting was reported out: Wednesday, March 08, 2006 12:43:24PM

## COMMITTEE MEETING REPORT

### Civil Justice Committee

3/8/2006 10:00:00AM

Location: 24 HOB

HB 803 : Child Support Guidelines

<input checked="" type="checkbox"/>	Favorable With Committee Substitute				
	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino			X		
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

#### Appearances:

Child Support Guidelines

Fred Dudley (Lobbyist) - Proponent

The Florida Bar

106. E. College Ave., Suite 1200

Tallahassee FL 32301

Phone: 850-521-8013

Committee meeting was reported out: Wednesday, March 08, 2006 12:43:24PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. HB 0803

COUNCIL/COMMITTEE ACTION

ADOPTED — (Y/N)  
ADOPTED AS AMENDED — (Y/N)  
ADOPTED W/O OBJECTION — (Y/N)  
FAILED TO ADOPT — (Y/N)  
WITHDRAWN — (Y/N)  
OTHER —

A  
w/o 1

Council/Committee hearing bill: Civil Justice Committee  
Representative(s) Rice offered the following:

**Amendment (with title amendments)**

Remove line(s) 28-35 and insert:

(b) Income on a monthly basis shall be imputed to an unemployed or underemployed parent when such employment or underemployment is found to be voluntary on that parent's part, absent physical or mental incapacity or other circumstances over which the parent has no control. In the event of such voluntary unemployment or underemployment, the employment potential and probable earnings level of the parent shall be determined based upon his or her recent work history, occupational qualifications, and prevailing earnings level in the community. For the purpose of establishing imputed income pursuant to this paragraph, there is hereby created a rebuttable presumption that a parent is presumed to be able to earn the Florida minimum wage, on a full-time basis, unless evidence produced at a hearing demonstrates that the parent is a resident of another state, in which case the state minimum wage applicable to the parent's state of residence shall apply if it is greater than the Florida minimum wage. In the absence of a state minimum

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

23 wage, or if the other state's minimum wage is lower than the  
24 Florida minimum wage, then the federal minimum wage shall apply.

25 ~~; however,~~ The court may refuse to impute income to a primary  
26 residential parent if the court finds it necessary for the  
27 parent to stay home with the child.

28 Section 2. Paragraph (a) of subsection (5) of section  
29 409.2563, Florida Statutes, is amended to read:

30 409.2563 Administrative establishment of child support  
31 obligations.--

32 (5) PROPOSED ADMINISTRATIVE SUPPORT ORDER.--

33 (a) After serving notice upon the noncustodial parent in  
34 accordance with subsection (4), the department shall calculate  
35 the noncustodial parent's child support obligation under the  
36 child support guidelines as provided by s. 61.30, based on any  
37 timely financial affidavits received and other information  
38 available to the department. If either parent fails to comply  
39 with the requirement to furnish a financial affidavit, the  
40 department may proceed on the basis of information available  
41 from any source, if such information is sufficiently reliable  
42 and detailed to allow calculation of guideline amounts under s.  
43 61.30. If the custodial parent receives public assistance and  
44 fails to submit a financial affidavit, the department may submit  
45 a financial affidavit for the custodial parent pursuant to s.  
46 61.30(15). If there is a lack of sufficient reliable information  
47 concerning a parent's actual earnings for a current or past  
48 period, it shall be presumed for the purpose of establishing a  
49 support obligation that a the parent who is a Florida resident  
50 or whose residence is unknown had an earning capacity equal to  
51 the Florida federal minimum wage during the applicable period,  
52 unless the parent shows that he or she is a resident of another  
53 state, in which case the state minimum wage applicable to the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

parent's state of residence shall apply if it is greater than  
the Florida minimum wage. In the absence of a state minimum  
wage or if the state minimum wage is lower than the Florida  
minimum wage then the federal minimum wage shall apply.

===== T I T L E A M E N D M E N T =====

Remove line(s) 4-7 and insert:

parent who is a resident of Florida or whose residence is  
unknown is able to earn the Florida minimum wage; unless the  
parent shows that he or she is a resident of another state, in  
which case the minimum wage applicable to the parent's state of  
residence will apply or in the absence of a state minimum wage  
the federal minimum wage will apply; providing for the parent to  
present his or her rebuttal before a trier of fact; amending s.  
409.2563(5)(a), F.S.; creating a rebuttable presumption that a  
parent who is a Florida resident or whose residence is unknown  
is able to earn the Florida minimum wage; unless the parent  
shows that he or she is a resident of another state, in which  
case the state minimum wage applicable to the parent's state of  
residence will apply or in the absence of a state minimum wage  
the federal minimum wage shall apply; providing an effective  
date.



# COMMITTEE MEETING REPORT

## Civil Justice Committee

3/8/2006 10:00:00AM

Location: 24 HOB

HB 839 : Homeowners' Associations

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley			X		
Carl Domino			X		
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 5		Total Nays: 0			

Committee meeting was reported out: Wednesday, March 08, 2006 12:43:24PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. HB 839

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

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w/o 1

Council/Committee hearing bill: Civil Justice Committee  
Representative(s) offered the following:

**Amendment**

Remove line(s) 292-393 and insert:

(1) ASSESSMENTS.--For any community created after October 1, 1995, the governing documents must describe the manner in which expenses are shared and specify the member's proportional share thereof. Assessments levied pursuant to the annual budget or special assessment must be in the member's proportional share of expenses as described in the governing document, which share may be different among classes of parcels based upon the state of development thereof, levels of services received by the applicable members, or other relevant factors. While the developer is in control of the homeowners' association, it may be excused from payment of its share of the operating expenses and assessments related to its parcels for any period of time for which the developer has, in the declaration, obligated itself to pay any operating expenses incurred that exceed the assessments receivable from other members and other income of the association. This section does not apply to an association,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

no matter when created, if the association is created in a community that is included in an effective development-of-regional-impact development order as of the effective date of this act, together with any approved modifications thereto.

(2) GUARANTEES OF COMMON EXPENSES.--

(a) Establishment of guarantee.--If a guarantee is not included in the purchase contracts, declaration, or prospectus, any agreement establishing a guarantee shall only be effective either upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association or by agreement in writing without a meeting if provided in the bylaws. Such guarantee shall meet the requirements of this section.

(b) Guarantee period.--The period of time for the guarantee shall be indicated by a specific beginning and ending date or event.

1. The ending date or event shall be the same for all of the members of a homeowners' association, including members in different phases of homeowners' associations.

2. The guarantee may provide for different intervals of time during a guarantee period with different dollar amounts for each such interval.

(c) Guarantee extension.--The guarantee may provide that after the initial stated period, the developer has an option to extend the guarantee for one or more additional stated periods. The extension of a guarantee is limited to extending the ending date or event; therefore, the developer does not have the option of changing the level of assessments guaranteed.

(3) MAXIMUM LEVEL OF ASSESSMENTS.--The stated dollar amount of the guarantee shall be an exact dollar amount for each

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

parcel identified in the declaration. Regardless of the stated dollar amount of the guarantee, assessments charged to a member shall not exceed the maximum obligation of the member based on the total amount of the adopted budget and the member's proportionate ownership share of the common elements.

(4) CASH FUNDING REQUIREMENTS DURING GUARANTEE.--The cash payments required from the guarantor during the guarantee period shall be determined as follows:

(a) If at any time during the guarantee period the funds collected from member assessments at the guaranteed level and other revenues collected by the association are not sufficient to provide payment, on a timely basis, of all common expenses, including the full funding of the reserves unless properly waived, the guarantor shall advance sufficient cash to the association at the time such payments are due.

(b) Expenses incurred in the production of nonassessment revenues, not in excess of the nonassessment revenues, shall not be included in the common expenses. If the expenses attributable to nonassessment revenues exceed nonassessment revenues, only the excess expenses must be funded by the guarantor. For example, if the association operates a rental program in which rental expenses exceed rental revenues, the guarantor shall fund the rental expenses in excess of the rental revenues. Interest earned on the investment of association funds may be used to pay the income tax expense incurred as a result of the investment, such expense shall not be charged to the guarantor, and the net investment income shall be retained by the association. Each such nonassessment revenue-generating activity shall be considered separately. Capital contributions collected from

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

81 members are not revenues and shall not be used to pay common  
82 expenses.

83 (5) CALCULATION OF GUARANTOR'S FINAL OBLIGATION.--The  
84 guarantor's total financial obligation to the association at the  
85 end of the guarantee period shall be determined on the accrual  
86 basis using the following formula:

87 (a) The guarantor shall fund the total common expenses  
88 incurred during the guarantee period, including the full funding  
89 of the reserves unless properly waived; less

90 (b) The total regular periodic assessments earned by the  
91 association from the members other than the guarantor during the  
92 guarantee period regardless of whether the actual level charged  
93 was less than the maximum guaranteed amount.

94 (6) EXPENSES.--Expenses incurred in the production of  
95 nonassessment revenues, not in excess of the nonassessment  
96 revenues, shall not be included in the common expenses. If the  
97 expenses attributable to nonassessment revenues exceed  
98 nonassessment revenues, only the excess expenses must be funded  
99 by the guarantor. For example, if the association operates a  
100 rental program in which rental expenses exceed rental revenues,  
101 the guarantor shall fund the rental expenses in excess of the  
102 rental revenues. Interest earned on the investment of  
103 association funds may be used to pay the income tax expense  
104 incurred as a result of the investment, such expense shall not  
105 be charged to the guarantor, and the net investment income shall  
106 be retained by the association. Each such nonassessment revenue-  
107 generating activity shall be considered separately. Capital  
108 contributions collected from members are not revenues and shall  
109 not be used to pay common expenses.

# COMMITTEE MEETING REPORT

## Civil Justice Committee

3/8/2006 10:00:00AM

Location: 24 HOB

HB 841 : Supersedeas Bond

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley			X		
Carl Domino			X		
Arthenia Joyner		X			
Irving Slosberg		X			
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 3		Total Nays: 2			

### Appearances:

Supersedeas Bond

George Meros (Lobbyist) - Proponent

WellCare Health Plans

301 S. Bronough

Tallahassee FL 32301

Phone: 850-577-9090

Supersedeas Bond

Jennifer J. Green (Lobbyist) - Proponent

Director of Governmental Affairs

325 W. College

Tallahassee FL 32302

Phone: 850-224-2727

Supersedeas Bond

Adam Babinton (Lobbyist) - Proponent

Legislative Counsel

136 S. Bronough St.

Tallahassee FL 32301

Phone: 850-521-1253

Supersedeas Bond

Tom Edwards (General Public) - Proponent

Academy of Trial Lawyers

Supersedeas Bond

James Harold Thompson (Lobbyist) - Proponent

CSX Transportation

227 S. Calhoun St.

Tallahassee FL 32301

Phone: 850-224-9115

Committee meeting was reported out: Wednesday, March 08, 2006 12:43:24PM

## **COMMITTEE MEETING REPORT**

### **Civil Justice Committee**

**3/8/2006 10:00:00AM**

**Location:** 24 HOB

Supersedeas Bond

Brian Bibeau (Lobbyist) - Proponent

Exxon Mobil

123 S. Calhoun St.

Tallahassee FL 32301

Phone: 850-222-7500

Committee meeting was reported out: Wednesday, March 08, 2006 12:43:24PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. HB 841

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

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Council/Committee hearing bill: Civil Justice Committee  
Representative(s) Attkisson offered the following:

**Amendment**

Remove line(s) 23-25 and insert:

(2) If an appellant is an individual or is an  
independently owned and operated business with 400 or fewer  
full-time employees, the supersedeas bond, at the election of  
the



# COMMITTEE MEETING REPORT

## Civil Justice Committee

3/8/2006 10:00:00AM

Location: 24 HOB

HB 1089 : Construction Contracting

<input checked="" type="checkbox"/> Favorable					
	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley			X		
Carl Domino			X		
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel			X		
Mark Mahon (Chair)	X				
Total Yeas: 4		Total Nays: 0			

### Appearances:

Construction Contracting

Tom Edwards (General Public) - Proponent

Academy of Trial Lawyers

Construction Contracting

James Mostelles (Lobbyist) - Proponent

FL Roofing & Sheet Metal

3816 Shamrock St. W

Tallahassee FL 32309

Phone: 850-345-7885

Construction Contracting

Anna Fentriss (Lobbyist) - Proponent

FL RACCA, Amer. Specialty Contractors of FL

1400 Village Square #3-243

Tallahassee FL 32312

Phone: 850-222-2772

Construction Contracting

Davis Shepp (Lobbyist) - Proponent

Independent Electrical Contractors

2910 Winter Lake Rd.

Lakeland FL 33803

Phone: 863-581-4250

Construction Contracting

Vicki Long (Lobbyist) - Proponent

FL Assoc. of the American Institute of Architects

104 E. Jefferson St.

Tallahassee FL 32301

Phone: 850-222-7590

Committee meeting was reported out: Wednesday, March 08, 2006 12:43:24PM

## **COMMITTEE MEETING REPORT**

### **Civil Justice Committee**

**3/8/2006 10:00:00AM**

**Location:** 24 HOB

Construction Contracting

Dove Buck (Lobbyist) - Proponent

FL Home Builders Association

P. O. Box 1259

Tallahassee FL 32302

Phone: 850-224-4316

Construction Contracting

Warren Husband (Lobbyist) - Proponent

Florida AGC Council

P. O. Box 10909

Tallahassee FL 32302

Phone: 850-205-9000

Committee meeting was reported out: Wednesday, March 08, 2006 12:43:24PM

## COMMITTEE MEETING REPORT

### Civil Justice Committee

3/8/2006 10:00:00AM

Location: 24 HOB

PCB CJ 06-04 : Electronic Recording

<input checked="" type="checkbox"/>	Favorable With Amendments				
	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon	X				
Marti Coley	X				
Carl Domino			X		
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

#### Appearances:

Electronic Recording

Judi Ring (State Employee) - Information Only

State Librarian

500 S. Bronough St.

Tallahassee FL 32399

Phone: 850-245-6603

Committee meeting was reported out: Wednesday, March 08, 2006 12:43:24PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. PCB CJ 06-04

COUNCIL/COMMITTEE ACTION

ADOPTED	— (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

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w/o  
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Council/Committee hearing bill: Civil Justice Committee

Representative(s) Cannon offered the following:

**Amendment**

Remove line(s) 84-88 and insert:

(a) The Department of State shall prescribe by rule standards to implement this section in consultation with the Electronic Recording Advisory Council, which is hereby created. The Electronic Recording Advisory Council shall consist of nine members. The Secretary of State shall appoint the chair of the Electronic Recording Advisory Council. The Secretary of State shall provide